761551N25A - SH-AD-32A

COUNTY OF LOS ANGELES
SHERIFF'S DEPARTMENT
A Tradition of Service

DATE: February 19, 2013
FILE NO:

OFFICE CORRESPONDENCE

FROM: MICHAEL J. ROTHANS, COMMANDER
FIELD OPERATIONS REGION II

TO: ALICIA E. AULT, CAPTAIN
INTERNAL AFFAIRS BUREAU

SUBJECT: EXECUTIVE FORCE REVIEW COMMITTEE FINDINGS:

Case Number:	FO2311885
Incident:	Significant Force
Incident Date:	April 29, 2012
Unit:	Temple Station
Suspect:	Francisco Soto, MH/02-13-92
Involved Employees:	Deputy Billy Khounthavong, #[redacted] Deputy [redacted] #[redacted]
EFRC Date:	February 14, 2013

The Executive Force Review Committee consisting of Commander Michael Rothans, Commander David Fender, and Commander Buddy Goldman met and reviewed the above case.

FORCE POLICY RELATING TO INCIDENT:

Peace officers are entitled to use the amount of force that is reasonable and necessary to make an arrest, prevent escape, or overcome resistance.

FINDINGS:

Deputies responded to the 2000 block of Redding Avenue, South San Gabriel, regarding a call for service. During the call for service, the deputies noticed several of the individuals had been drinking. Two of the individuals indicated they were going to take care of the suspect, even though he appeared to be intoxicated, and walked with him to the rear of the location.

While the deputies remained parked in front of the location, the suspect returned and approached the deputies. The suspect became hostile and belligerent, and the deputies decided to arrest the suspect for being drunk in public.

The suspect became uncooperative and one of the deputies placed the suspect in a rear wrist lock and pinned the suspect against the patrol car as leverage. The suspect was ultimately handcuffed. During the rear wrist lock maneuver, one of the deputies heard a popping sound from the suspect's left arm.

The suspect was transported to the hospital where he was diagnosed with a fractured left elbow and left shoulder sprain.

The Committee determined the use of force in its totality was reasonable, necessary, and justified against the uncooperative suspect. The Committee also determined the tactics used by the involved personnel were within the Department's training standards.

RECOMMENDATIONS:

The Committee recommended the unit commander, Captain Christopher P. Nee, conduct a tactical debriefing with the involved personnel regarding the circumstances of this incident.

MJR:JER:jer

TABLE OF CONTENTS

IAB FO2311885

H One (1) DVD containing five (5) video recorded interview segments with Suspect Soto

I One (1) CD containing informant telephone call and transcript

J One (1) CD containing digital photographs of incident scene, suspect and involved deputies

K Three (3) photos of Suspect Soto

L DDWS for Unit 53A/E dated April 29, 2012, and e-mail response from Deputy Khounthavang

MISCELLANEOUS DOCUMENTS

Admonition forms
CCHRS report for Suspect Francisco Soto
Suspect Soto's jail information
Temple Station EM in-service dated April 29, 2012
DDWS Unit 53T1/E dated April 29, 2012
DDWS Unit 54/E dated April 29, 2012
DDWS Unit 53/E dated April 29, 2012
Incident Details TEM12120-0044

Los Angeles County Sheriff's Department

Supervisor's Report on Use of Force

Incident Information

URN: 912-80025-0571-201		Date: 4/29/12	Time: 0457 hours
Location: [redacted] Redding Avenue		City or Station: South San Gabriel	
Bureau/Station/Facility: FOR I / TEMPLE		Admin. Investigation: YES ☐ NO ☒	
Type of Force: Significant Force / Skeletal Fracture to Suspect / Control Techniques / Resisted Handcuffing			
Deputy Injury: YES ☐ NO ☒	Suspect Injury YES ☒ NO ☐		
☒ Call	☐ Observation	☐ Detail	☐ Foot Pursuit ☐ Vehicle Pursuit
IAB Notified: YES ☒ NO ☐	Person Notified: Lt. Ault	Emp: [redacted]	IAB Roll Out: YES ☒ NO ☐

Involved Employee

E 1

Employee # [redacted]	Last Name: Khounthavong	First Name: Billy	Middle Name: S.
Sex: ☒ Male ☐ Female	Race: A	Unit of Assignment: Temple Station	Work Assignment (Unit #, Module, etc.): 53A
Shift: ☒ EM ☐ Day ☐ PM	☒ Regular Shift ☐ OT Shift ☐ Off Duty	Age: [redacted]	Height: 509 / Weight: 185
☐ Injured ☐ Treated ☐ Admitted	Hospital:	Coroner Case #	Directed Force ☐ Significant Force ☒

E 2

Employee # [redacted]	Last Name: [redacted]	First Name: [redacted]	Middle Name: [redacted]
Sex: ☒ Male ☐ Female	Race: A	Unit of Assignment: Temple Station	Work Assignment (Unit #, Module, etc.): 53T1
Shift: ☒ EM ☐ Day ☐ PM	☒ Regular Shift ☐ OT Shift ☐ Off Duty	Age: [redacted]	Height: 508 / Weight: 185
☐ Injured ☐ Treated ☐ Admitted	Hospital:	Coroner Case #	Directed Force ☐ Significant Force ☐

E_

Employee #	Last Name:	First Name:	Middle Name:
Sex: ☐ Male ☐ Female	Race:	Unit of Assignment:	Work Assignment (Unit #, Module, etc.):
Shift: ☐ EM ☐ Day ☐ PM	☐ Regular Shift ☐ OT Shift ☐ Off Duty	Age:	Height: / Weight:
☐ Injured ☐ Treated ☐ Admitted	Hospital:	Coroner Case #	Directed Force ☐ Significant Force ☐

☐ **Additional Involved Employees**

On Duty Supervisor

Emp. #	Last Name	First Name	Middle Name	Rank	Present	Witness to Incident
[redacted]	Bergner	Ryan	T.	Sgt.	YES ☐ NO ☒	YES ☐ NO ☒
[redacted]	Long	James	P.	Sgt.	YES ☐ NO ☒	YES ☐ NO ☒

Watch Sergeant

Emp. #	Last Name	First Name	Middle Name
[redacted]	O'Brien	Lynette	R.

Watch Commander

Emp. #	Last Name	First Name	Middle Name
[redacted]	Del Valle	Augustin	-

Lt. Augustin Del Valle
Watch Commander (**Print Name**) — Watch Commander's **Signature**: — Emp #: — Date

Sgt. Chad Smeltzer — [redacted]
Supervisor Completing Form: (**Print Name**) — Emp #: — Copy Provided to Employee by: — Emp #:

Captain Christopher P. Nee
Unit Commander (**Print Name**) — Unit Commander's **Signature**: — Emp #: — Date

DISCOVERY Use Only
FO#

Original: Discovery Unit
Copy: Unit Commander

Supervisor's Report on Use of Force
SUSPECT INFORMATION
9 1 2 - 8 0 0 2 5 - 0 5 7 1 - 2 0 1

Suspect Information

S 1

Last Name	Soto	First Name	Francisco	Middle Name	--
AKA Last Name		First Name		Middle Name	

Sex: ☒ Male ☐ Female	Race: H	Street Address: [redacted]	City: [redacted]	State & Zip Code: [redacted]

Work Phone: [redacted]	Home Phone: [redacted]	Age: 19	Height: 5'11"	D.O.B. 02-13-92	Weight: 185 lbs.	Armed? ☐

Booking #: 3138444 Primary Charge Code: 647(f) PC Secondary Charge Code: Criminal History [redacted]

EMT in attendance? ☒ YES ☐ NO Name: ______ Unit: ______ Phone #: ______

Hospital Admission? ☐ Rec'd Treatment At: San Gabriel Medical Center Coroner Case #: ______ Mental History ☐ User's guide provides direction on this entry

By Doctor: Dr. Au Hargraves Address: 438 W. Las Tunas Dr., San Gabriel Phone #: 626-289-5454

Under Influence: ☒ YES ☐ NO Substance: Alcohol | 5150 a factor in force ☐ YES ☒ NO User's guide provides direction on this entry

Suspect Interview

Date: 04-29-12 | Time: 0515 hours | ☐ Audiotape: ☒ Videotape: ☒ Photos of Injuries: ☐ ADMITS HEARING ANNOUNCEMENTS

Suspect Information

S__

Last Name		First Name		Middle Name	
AKA Last Name		First Name		Middle Name	

Sex: ☐ Male ☐ Female	Race:	Street Address:	City:	State & Zip Code:

Work Phone:	Home Phone:	Age:	Height:	D.O.B.	Weight:	Armed? ☐

Booking #: Primary Charge Code: Secondary Charge Code: Criminal History ☐

EMT in attendance? ☐ YES ☐ NO Name: ______ Unit: ______ Phone #: ______

Hospital Admission? ☐ Rec'd Treatment At: ______ Coroner Case #: ______ Mental History ☐ User's guide provides direction on this entry

By Doctor: ______ Address: ______ Phone #: ______

Under Influence: ☐ YES ☐ NO Substance: ______ | 5150 a factor in force ☐ YES ☐ NO User's guide provides direction on this entry

Suspect Interview

Date: | Time: | ☐ Audiotape: ☐ Videotape: ☐ Photos of Injuries: ☐ ADMITS HEARING ANNOUNCEMENTS

Suspect Information

S__

Last Name		First Name		Middle Name	
AKA Last Name		First Name		Middle Name	

Sex: ☐ Male ☐ Female	Race:	Street Address:	City:	State & Zip Code:

Work Phone:	Home Phone:	Age:	Height:	D.O.B.	Weight:	Armed? ☐

Booking #: Primary Charge Code: Secondary Charge Code: Criminal History ☐

EMT in attendance? ☐ YES ☐ NO Name: ______ Unit: ______ Phone #: ______

Hospital Admission? ☐ Rec'd Treatment At: ______ Coroner Case #: ______ Mental History ☐ User's guide provides direction on this entry

By Doctor: ______ Address: ______ Phone #: ______

Under Influence: ☐ YES ☐ NO Substance: ______ | 5150 a factor in force ☐ YES ☐ NO User's guide provides direction on this entry

Suspect Interview

Date: | Time: | ☐ Audiotape: ☐ Videotape: ☐ Photos of Injuries: ☐ ADMITS HEARING ANNOUNCEMENTS

☐ **Additional Suspects Involved**

Sup visor's Report on Use of Fo

EMPLOYEE / NON-EMPLOYEE INFORMATION

9 1 2 - 8 0 0 2 5 - 0 5 7 1 - 2 0 1

Employee Witnesses

Emp. #	Last Name	First Name	Middle Name

Non-Employee Witnesses

Last Name	First Name	Middle Name	Age	D.O.B.	
Street Address	**City**	**Zip Code**	**Work Ph.**	**Home Ph.**	
[redacted]	[redacted]	[redacted]	23	[redacted]	
[redacted]	[redacted]	[redacted]	[redacted]		
[redacted]	[redacted]	[redacted]	23	[redacted]	
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	

☐ Additional Witness

Method

(AW) Arwen
(BC) Baton: (Control)
(BI) Baton: (Impact)
(BF) Bodily Fluids
(CN) Canine
(CR) Carotid Restraint
(CH) Choke Hold
(CT) Control Holds: (Control Techniques)
(TT) Control Holds: (Team Takedown)
(TD) Control Holds: (Takedown)
(CE) Chemical
(OC) Chemical Agents (OC Spray)
(TG) Chemical Agents (Tear Gas)
(EX) Explosives
(FH) Firearm (Handgun)
(FR) Firearm (Rifle)
(FS) Firearm (Shotgun)
(FO) Firearm (Other)
(FB) Flashbang
(FL) Flashlight
(OE) Other Weapon: Edged
(OV) Other Weapon: Vehicle
(OB) Other Weapon: Blunt Object
(OO) Other Weapon: Other
(PK) Personal Weapon: Feet/Leg: (Kick)
(PS) Personal Weapon: Feet/Leg: (Sweep)
(PH) Personal Weapon (Hand/Arm)
(PP) Personal Weapon (Push)
(PO) Personal Weapon (Other)
(RS) Resistance
(CN) Restraint Device (Capture Net)
(RH) Restraint Device (Handcuffs)
(HB) Restraint Device: Hobble (Legs Only)
(TP) Restraint Device: Hobble (TARP)
(RE) Restraint Device: REACT Belt
(SP) Sap
(SH) Shield
(SG) 37mm Stinger
(SB) Sting Ball
(ST) Stun Bag
(TR) Taser
(UC) Uncooperative

Type of Injury

(AB) Abrasion
(BR) Bruise
(BU) Burn
(CP) Complaint of Pain
(CO) Concussion
(DH) Death
(DI) Dislocation
(DB) Dog Bite
(FR) Fractures
(GS) Gunshot
(HB) Human Bite
(LC) Lacerations
(ND) Nerve Damage
(OD) Organ Damage
(PA) Paralysis
(PW) Puncture Wound
(SD) Soft Tissue Damage
(ST) Sprain/Twists
(UN) Unconscious
(RM) Refused Med Treatment
(NN) NONE

Body Part Injured

(AD) Abdomen
(AK) Ankle
(AR) Arm
(BK) Back
(BT) Buttocks
(CH) Chest
(EL) Elbow
(FA) Face
(FE) Feet
(FI) Fingers
(GE) Genitals
(GR) Groin
(HD) Hands
(HE) Head
(HI) Hip
(IN) Internal
(KN) Knees
(LE) Leg
(NK) Neck
(NO) Nose
(SH) Shoulder
(WR) Wrist

FORCE USED BY		FORCE USED AGAINST		Method (Code)	Type of Injury (Code)	Body Part (Code)
Name	E# or S#	Name	E# or S#			
Soto	S#1	Khounthavong	E#1	UC	NN	
Soto	S#1	Khounthavong	E#1	RS	NN	
Khounthavong	E#1	Soto	S#1	CT	FR	AR
Khounthavong	E#1	Soto	S#2	PP	NN	
Khounthavong	E#1	Soto	S#1	RH	NN	
[redacted]	E#2	Soto	S#1	PP	NN	
Soto	S#1	[redacted]	E#2	UC	NN	
Soto	S#1	[redacted]	E#2	RS	NN	
[redacted]	E#2	Soto	S#1	CT	NN	

COUNTY OF LOS ANGELES SHERIFF'S DEPARTMENT

INVESTIGATIVE SUMMARY

SIGNIFICANT USE OF FORCE

- CONTROL TECHNIQUES
- RESISTED HANDCUFFING
- SKELETAL FRACTURES TO SUSPECT

UNIT: TEMPLE STATION

DATE / TIME OF INCIDENT: APRIL 29, 2012(SUNDAY) / 0457 HOURS

LOCATION: [redacted] REDDING AVENUE, SOUTH SAN GABRIEL

URN: 912-80025-0571-201

IAB #: FO2311885

SYNOPSIS

On April 29, 2012, an Internal Affairs Bureau team comprised of Lieutenant Alicia Ault and Sergeant Chad Smeltzer responded to Temple Station to conduct a Use of Force Review subsequent to learning the suspect in the incident suffered a fractured humerus bone. Upon their arrival, they were informed of the following:

At 0407 hours Temple Sheriff Station received a call for service regarding numerous people arguing and possibly fighting. Several units responded and dispers[redacted]small group who had gathered. After the incident was resolved, Deputies [redacted] and Khounthavong remained at the location and were approached by Suspect Soto. It was immediately apparent to the deputies that Suspect Soto was under the influence of an alcoholic beverage by his gait and slurred speech which was laced with profanities and insults toward the deputies. Deputy Khounthavong determined that Suspect Soto was unable to care for himself and decided to arrest him for Public Intoxication, 647(f) P.C.

Deputy Khounthavong escorted Suspect Soto to his patrol car hood. The deputies ordered Suspect Soto to place his hands behind his back. Suspect Soto refused and grabbed onto the hood of the patrol car. Deputy Khounthavong placed Suspect Soto's left arm in a rear

wrist lock while Deputy [redacted] grabbed Suspect Soto's right arm. Suspect Soto became resistive and pushed himself backward, using the radio car as leverage and thrashed his head backward toward the deputies. Deputies [redacted] and Khounthavong pushed Suspect Soto forward toward the radio car.

During this time Suspect Soto was thrashing and twisting his upper body. As Suspect Soto moved, Deputies [redacted] and Khounthavong heard a popping sound come from what they believed to be the suspect's left arm. The deputies were able to handcuff the suspect with no further incident.

Based on the noise they heard, Suspect Soto was transported to San Gabriel Valley Medical Center, where he was diagnosed with a left humerus fracture and a left shoulder sprain.

INVOLVED PERSONNEL AND EMPLOYEE WORK HISTORY

Deputy Billy Khounthavong #[redacted]
Temple Station

Date of employment	08-04-04
Date assigned to patrol	[redacted]
Date completed patrol training	
Date assigned to Temple Station	01-24-10
Prior shooting incidents	[redacted]
Prior founded force incidents	



Deputy [redacted] #[redacted]
Temple Station

Date of employment	04-12-06
Date assigned to patrol	[redacted]
Date completed patrol training	
Date assigned to Temple Station	08-01-10
Prior shooting incidents	[redacted]
Prior founded force incidents	

SUSPECT INFORMATION

Francisco Soto
Male, Hispanic, DOB: 02-13-92, Booking #3138444, 5'11", 185 lbs
[redacted]
CII #[redacted] MAIN #[redacted] FBI #[redacted]

INJURIES

Suspect Francisco Soto **[Exhibit K]** sustained a fracture to the distal third of his left humerus and a left shoulder sprain. No Department personnel were injured.

PHYSICAL EVIDENCE

Digital photographs were taken, depicting the scene and injuries to Suspect Soto **[Exhibit J]**.

INVESTIGATORS OBSERVATIONS

IAB investigators did not respond to the incident location, since the scene was not preserved. Suspect Soto's fractures were not discovered until he was examined several hours after the incident's occurrence. There were no investigator's observations.

WEAPONS USED BY DEPUTY PERSONNEL

Control techniques.

WEAPON USED BY SUSPECT SOTO

Resistance.

PROPERTY DAMAGE

None.

CRIMINAL INVESTIGATORS AND CHARGES FILED

Investigators:	Filing Deputy Violeta Jara, Temple Station
Charges Filed:	Public Intoxication, 647(f) PC.
Case Status:	On September 27, 2012, Suspect Soto was convicted of Disorderly Conduct, 647(f) PC and was sentenced to thirty-six months summary probation, serve twenty days in county jail and pay a one hundred dollar fine.

LIGHTING AND WEATHER CONDITIONS

The force incident took place during the hours of darkness at approximately 0457 hours. The weather was cool, dry and clear.

WITNESS STATEMENTS

The following narratives are intended only as a synopsis of the interviews. Additional information and precise wording may be obtained by reviewing the digitally audio recorded interviews and verbatim transcriptions. IAB investigators reviewed the reports authored by the involved deputies and determined they were consistent with their IAB Administrative Force Review interviews.

DEPUTY BILLY KHOUNTHAVONG

*Deputy Billy Khounthavong authored an Incident Report **[Exhibit A]** regarding his actions and observations. Three photographs **[Exhibit F]** of the incident scene and Suspect Soto were used during Deputy Khounthavong's IAB interview to establish the location of occurrence for the incident and the source of a stain on Suspect Soto's shirt.*

On May 17, 2012, Deputy Billy Khounthavong was interviewed by IAB Sergeants Chad Smeltzer and Patrick Kim at the Internal Affairs Bureau office. Deputy Khounthavong was represented by Audra Call from the Green and Shinee legal office.

Deputy Khounthavong said on April 29, 2012, he was working alone as a uniformed patrol deputy in a marked patrol car. Deputy Khounthavong said he responded to a disturbance call at the corner of Redding Avenue and Del Mar Avenue. When he arrived, it was dark and he saw Deputy Charles Guzak had arrived before him. Three male Hispanics were seated on the north curb of Redding Avenue. Deputy Guzak #[redacted] told him that three other males had run from him when he arrived and he detained the three males seated on the curb. Deputies Steven Mikesell #[redacted] and Stacie Dobine #[redacted] arrived and also assisted with the disturbance call.

As Deputy Khounthavong spoke with the males, he formed the opinion they had been drinking alcohol beverages because they displayed symptoms consistent with alcohol intoxication such as bloodshot eyes and the odor of alcohol was emitting from their breath and body. Two males, [redacted] and [redacted] told him no one had been fighting and they were only horse playing.

The third male, Suspect Soto, appeared heavily intoxicated and rambled incoherent words. The deputies determined no fight had occurred and the [redacted] agreed to take Suspect Soto into their house and care for him. The males assisted Suspect Soto up from the curb

and walked him up a driveway where several houses were located. Deputy Khounthavong did not see which house the males walked to.

Deputy Khounthavong said assisting deputies left the location, but he and Deputy [redacted] remained in the street talking. As the two spoke several minutes passed and he saw Suspect Soto stumbling toward them.

Note: **Deputy Khounthavong's DDWS [Exhibit L] showed a potential ride-along witness named [redacted] who was entered into his DDWS. Deputy Khounthavong clarified in an e-mail response to IAB Sergeant Smeltzer [Exhibit L] that only he and Deputy [redacted] were present when Suspect Soto approached them. Deputy Khounthavong explained Explorer [redacted] was not on a ride-along at the time of the incident.**

Deputy Khounthavong told Suspect Soto to return to the house. Suspect Soto continued to walk toward the deputies and cursed at them. Deputy Khounthavong decided to arrest Suspect Soto for public intoxication, since he refused to remain indoors and appeared unable to care for himself.

Deputy Khounthavong ordered Suspect Soto to place his hands behind his back, and he refused to comply. He contacted Suspect Soto in the street approximately three feet from his patrol car. He escorted Suspect Soto to the hood of his patrol car by holding his left tricep with one hand. Deputy [redacted] was positioned on the right side of Suspect Soto. Deputy Khounthavong believed Deputy [redacted] also grabbed Suspect Soto, but he could not see [redacted] actions.

Once at the hood of the patrol car, Deputy Khounthavong told Suspect Soto again to place his hands be behind his back. Suspect Soto refused and grabbed the top of the hood near the windshield with both of his hands. The deputies repeatedly told Suspect Soto to loosen his grasp of the vehicle's hood, but he refused to comply.

Deputy Khounthavong said he pulled Suspect Soto's left arm from the hood of the car and placed it behind his back in a rear wrist lock position. Suspect Soto began to thrash his body and his head in an attempt to break free from his grasp. As Suspect Soto moved his body, Deputy Khounthavong heard a popping noise from Suspect Soto's left arm.

After Deputy Khounthavong heard the popping noise from Suspect Soto's arm, he was able to handcuff Soto. Suspect Soto did not say he was injured or say that he was in pain. Deputy Khounthavong did not see any injury to Suspect Soto, but suspected he was injured due to the popping noise he heard.

Deputy Khounthavong said he did not broadcast the incident on his Sheriff radio because he and Deputy [redacted] were only attempting to handcuff Suspect Soto. He estimated the struggle to handcuff Suspect Soto took less than one minute. Suspect Soto was placed in the rear of Deputy Khounthavong's patrol car. While Suspect Soto was seated in the patrol car he vomited inside of the patrol car.

Deputy [redacted] requested Sergeant Bergner to respond to the arrest location. Deputy Khounthavong reported his actions to Sergeant Bergner once he arrived at the arrest location.

Deputies Chapman and Melendez transported Suspect Soto to the hospital due to the popping noise heard by Deputies Khounthavong and [redacted]

Deputy Khounthavong said he was not assigned a Taser at the time of the incident. He felt O.C. spray would not have been an appropriate option because Suspect Soto would have possibly fell to the ground, due to his level of sobriety, and injured himself if he had been sprayed.

DEPUTY [redacted]

*Deputy [redacted] authored a Supplemental Report **[Exhibit B]** regarding his actions and observations. Three photographs **[Exhibit G]** of the incident scene and Suspect Soto were used during Deputy [redacted] IAB interview to establish the location of occurrence for the incident and the source of a stain on Suspect Soto's shirt.*

On May 17, 2012, Deputy [redacted] was interviewed by IAB Sergeants Chad Smeltzer and Patrick Kim at the Internal Affairs Bureau office. Deputy [redacted] was represented by Audra Call from the Green and Shinee legal office.

Deputy [redacted] said on April 29, 2012, he was working alone as a uniformed patrol deputy in a marked patrol car. Deputy [redacted] responded to a disturbance call on Redding Avenue. When he arrived it was dark and he saw Deputy Charles Guzak #[redacted] had arrived before him and had three male Hispanics seated on the north curb of Redding Avenue. Deputy Billy Khounthavong had arrived slightly before him. Deputy [redacted] said Deputies Steven Mikesell #[redacted] and Stacie Dobine #[redacted] also responded and assisted with the disturbance call.

Deputy Guzak told him that three other males had run from him when he arrived and he was only able to detain the three seated on the curb. Deputy [redacted] said no deputies had ran after the males that fled from Deputy Guzak. He saw the males, identified as [redacted] and Suspect Soto, appeared under the influence of alcohol and displayed symptoms consistent with alcohol intoxication such as the odor of alcohol emitting from their breath and body, bloodshot watery eyes and Suspect Soto

appeared to be unable to stand by himself.

Deputy [redacted] spoke with [redacted] who told him the group was part of a tagging crew called LSD and that they had been messing around. [redacted] also told Deputy [redacted] that Suspect Soto was very drunk. No one in the group said they were a victim of a crime. The deputies spoke to the three males for approximately fifteen minutes, determined no fight had occurred and released the group.

Deputy [redacted] said both [redacted] agreed they would care for Suspect Soto, since it appeared he could not care for himself. The three walked up the long inclined driveway out of view. He and Deputy Khounthavong remained on the street seated in the their patrol cars talking after Deputy Guzak and other assisting deputies left the location.

As he and Deputy Khounthavong spoke, approximately ten minutes passed and Suspect Soto staggered down the driveway alone toward them. He said Deputy Khounthavong told Suspect Soto to return inside. Suspect Soto continued toward Deputy Khounthavong's vehicle and shouted profanity at them. He said Deputy Khounthavong exited his patrol car and contacted Suspect Soto in the street and then escorted him by holding his left arm to the driver side hood of the patrol car.

Deputy [redacted] estimated Deputy Khounthavong's patrol car was positioned approximately fifteen feet from the driveway and Suspect Soto approached to within approximately ten feet of Deputy Khounthavong's patrol car before Deputy Khounthavong contacted him.

Deputy [redacted] saw Deputy Khounthavong grab Suspect Soto by the left tricep with one hand and walk him to the hood of Deputy Khounthavong's patrol car. As Deputy Khounthavong escorted Suspect Soto to the patrol car, Suspect Soto continued to direct profanity toward them.

As Deputy Khounthavong and Suspect Soto reached the hood of the patrol car, Suspect Soto grabbed onto the top of the hood near the base of the windshield and refused to let go. Deputy [redacted] grabbed Suspect Soto's right wrist and forearm with both of his hands and attempted to pull Suspect Soto's hand free from the hood.

He told Suspect Soto to release his grasp from the hood and Deputy Khounthavong told Suspect Soto to place his hands behind his back. Suspect Soto refused to comply with the deputies' commands and began to thrash his body wildly and attempted to free himself from the deputies' grasp. Deputy [redacted] saw Suspect Soto swung his head backward toward Deputy Khounthavong, but did not strike him.

Deputy [redacted] and Deputy Khounthavong were able to forcibly remove Suspect Soto's arms behind his back as he resisted the deputies actions. As Suspect Soto's arms were placed behind his back, Deputy [redacted] heard a popping noise from the left side of Suspect Soto's

body. After Suspect Soto's hands were placed behind his back, Deputy Khounthavong handcuffed Suspect Soto.

Deputy [redacted] said Suspect Soto did not tell him that he was injured nor did he see any injury to Suspect Soto. Deputy [redacted] was not injured during the incident.

Deputy [redacted] did not consider using his O.C. spray, because he did not want to release his grasp of Suspect Soto and he did not want to contaminate Deputy Khounthavong. Deputy [redacted] also did not request backup because he did not want to release his control of the suspect.

Suspect Soto was handcuffed and placed in the rear of Deputy Khounthavong's patrol car, Deputy [redacted] requested Sergeant Bergner to respond to the scene via Temple Station's L-Tac radio channel. Once Sergeant Bergner arrived, Deputy [redacted] reported his actions to Sergeant Bergner.

Suspect Soto was removed from the rear seat of Deputy Khounthavong's patrol car and placed into a different patrol car, so that he could be transported to the hospital. Deputy [redacted] saw Suspect Soto had vomited in the rear passenger area of Deputy Khounthavong's patrol car and Suspect Soto had a brown stain on the shoulder area of his shirt. Deputy [redacted] believed the stain was from Suspect Soto vomiting on himself.

[redacted]

On December 5, 2012, IAB Sergeant Chad Smeltzer interviewed [redacted] at his home. [redacted] said on April 29, 2012, he and approximately three friends were wrestling on the street. The group had been drinking beer earlier and were contacted by a deputy that was passing by and saw the group wrestling. The deputy detained him and several of his friends and approximately two additional patrol cars arrived.

Mr. [redacted] said no one from his group ran from the deputies and the deputies did not chase anyone. He and his friends were detained at the curb and inside of the patrol cars as the deputies identified the members of the group. The deputies spoke to him and told him to keep his friends inside so the neighbors would not request the deputies to return or members of the group would be arrested.

Mr. [redacted] said he and his friends were no longer detained and the group returned to his house. He estimated Suspect Soto had drank two forty ounce beers earlier in the evening, but could care for himself. As Mr. [redacted] and others were located at his house, he noticed Suspect Soto had left the location. Mr. [redacted] assumed Suspect Soto had went home.

Mr. [redacted] said he walked down the driveway alone and saw deputies talking to Suspect

Soto. Suspect Soto was seated on the curb handcuffed. He did not hear Suspect Soto saying any profanity to the deputies and heard the deputies telling Suspect Soto they had told him not to come outside. He estimated he stood fifty feet from the deputies and he did not want to be seen because the deputies had told him to stay at his house.

He did not witness a struggle between Suspect Soto and the deputies. He estimated approximately three patrol cars were present when he saw Suspect Soto and an additional three patrol cars arrived as the deputies spoke with Suspect Soto.

Mr. [redacted] said Suspect Soto did not vomit when he was in his presence and he did not recall seeing a brown stain on Suspect Soto's shirt. He said [redacted] was a friend who was living at his house at the time of the incident and they were not related. Mr. [redacted] said he did not know [redacted] and she did not live at his house.

[redacted]

On December 11, 2012, IAB Sergeant Chad Smeltzer conducted a telephone interview with [redacted] Mr. [redacted] said he, [redacted] and Suspect Soto were had been drinking Bud Light and were detained by deputies at the sidewalk on Redding Avenue because they were rowdy and horse playing. Once the deputies were finished detaining the group, he and the others returned to [redacted] house at the top of the driveway.

Mr. [redacted] said he knew Suspect Soto was preparing to leave [redacted] house and walk home. Mr. [redacted] said he told Suspect Soto to stay at the house longer, but Suspect Soto left. Mr. [redacted] was at the top of the hill and heard Suspect Soto saying his was being hurt and the sound of people wrestling, but he initially ignored Suspect Soto's voice. When he looked down the driveway for Suspect Soto he saw two deputies, but did not see Suspect Soto. He did not know if Suspect Soto had been placed in a patrol car or if he had been taken somewhere else.

Mr. [redacted] did not see Suspect Soto struggle with the deputies, he only heard Suspect Soto saying he was being hurt and the sound of people wrestling. When he looked for Suspect Soto again, he was handcuffed and located in a patrol car.

He saw approximately eight deputies talking amongst themselves in the street. Mr. [redacted] believed no deputies left the location between the time he, [redacted] and Suspect Soto walked up the driveway to Francisco's house and the deputies were waiting to see if the group returned to the street.

Mr. [redacted] said he was residing at [redacted] house at the time of the incident and they were not related.

SUSPECT FRANCISCO SOTO

Field Sergeant Interview

On April 29, 2012, at approximately 0515 hours Field Sergeant Ryan T. Bergner #[redacted] conducted a digitally video recorded interview **[File 517, Exhibit H]** with Suspect Francisco Soto at the incident scene. Suspect Soto said he was twenty years old and had drank eighty ounces of beer. He said he had attempted to break up a fight. Suspect Soto said he did not fight with the arresting deputies, but may have resisted their actions.

Suspect Soto said was not taking any medication prior to the incident and he was not hurt. Suspect Soto said he had vomited and there was vomit on the side of his face. The interview was ceased when it appeared Suspect Soto was preparing to vomit.

> Note: **Sergeant Bergner documented Suspect [redacted] vomit [File 518, Exhibit H] in the rear seat of the patrol car where he had been seated.**

Watch Commander Interview

On April 29, 2012, at approximately 0833 hours Watch Commander Lieutenant Edward Godfrey #[redacted] and Sergeant James Dexter #[redacted] conducted a digitally video recorded interview **[Files 519, 520 and 522, Exhibit H]** with Suspect Francisco Soto at Temple Station.

Suspect Soto said while he was at his friend's house three Sheriff cars arrived and the deputies spoke to him and his friends. He said his friend's house is located at the corner of Del Mar Avenue and Redding Avenue. The deputies spoke to them and recorded their information. After the deputies spoke to him and his friend's, the deputies left the location. Suspect Soto said he left his friend's house to walk home and he could only remember being pushed onto the hood of a patrol car he identified as Unit 57.

> Note: **Most patrol cars assigned to Temple Station have a sticker with the number "57" affixed to the left rear window, in remembrance of Temple Deputy David March who was killed while on-duty while working Unit 57 on April 29, 2002.**

Suspect Soto remembered the deputies placed his arms behind his back and forced his arm in a upward position. He did not feel pain at the time of the incident, but felt pain as

he was interviewed. He may have resisted the deputies actions, but it was not his intention to resist them.

Suspect Soto and some friends had been drinking beer. He had drank four Victoria beers and felt drunk as he attempted to walk home.

Suspect Soto did not know how he received a brown stain on his shirt and he did not know what the stain was. Suspect Soto said he had not been involved in a fight with anyone before the incident with the deputies.

Suspect Soto said the medical staff at the hospital told him his left arm was fractured in three places. Suspect Soto said he purchased the beer from a liquor store called the Starlight.

Suspect Soto said he had not taken any prescription medication as he drank the beer. He said he was not under the care of a doctor or and had no previous mental health issues. Suspect Soto said the mark under his right eye was injury sustained playing football four to five months prior to the incident with the deputies. Suspect Soto said he may have possible received a scab on his left knee from the way he was positioned in the rear of the patrol car.

IAB Interview

On April 29, 2012, IAB Sgt. Chad Smeltzer interviewed Suspect Francisco Soto at the Temple Station Jail. Suspect Soto said he was twenty years old and had been drinking beer three to four hours prior to his arrest. Suspect Soto estimated he had drank three or four twelve ounce Victoria beers and one forty ounce Miller High Life beer. He said the beer made him feel good and he could tell he was drunk. Suspect Soto said even though he was drunk, he could care for himself. Suspect Soto did not drink any mixed alcohol drinks or use any narcotics prior to the incident.

Suspect Soto said he was at a friend's house located at Del Mar Avenue and Redding Avenue. Deputies arrived at the location related to an disturbance call because his friend's were arguing. The names of his friend's who were arguing were [redacted] and [redacted] but he could not remember their last names. Suspect Soto said he could not remember the details of his interaction with the deputies, but said the deputies left the location or remained in the area after they spoke to him and his friends.

Suspect Soto said he remained outside of his friend's house and attempted to sober himself. He was near the driveway of his friend's house he encountered two deputies. Suspect Soto said he believed the deputies approached him and he could not recall the deputies names.

Suspect Soto believed the deputies thought he was resisting arrest. He said the deputies pushed him against a patrol car, placed his hands behind his back and pulled his arms in an upward motion. Suspect Soto said when his arms were placed behind his back, he felt a sharp pain in his left arm and then it went numb. He said he did not remember telling the deputies he was injured. Suspect Soto said the deputy that injured his left arm was a male Asian deputy. He estimated the incident occurred at approximately one o'clock in the morning.

Suspect Soto said he was transported by patrol car to the hospital. He received medical treatment and was told his left humerus bone was fractured in three places and that medical personnel did not X-ray his arm for fractures.

Note: **Suspect Soto's medical records [Exhibit E] showed that he did receive X-rays and that he had a fracture in the distal third of his left humerus.**

He said he had a small abrasion to his left knee that may have occurred if he was forced to the ground.

Note: **During Watch Commander Godfrey's interview, Suspect Soto said his left knee sustained an abrasion as a result of the way he was positioned in the backseat of the patrol car.**

Suspect Soto said he was not under the care of a doctor or prescribed any medications prior to his arrest. He said he did not have any mental health issues.

Suspect Soto was not aware if anyone witnessed his arrest.

ADDITIONAL INFORMATION

Deputy Scott Chapman #[redacted] authored a Supplemental Report **[Exhibit C]** regarding Suspect Soto's transport to San Gabriel Medical Center. Deputy Chapman was told by Doctor Hargraves Suspect Soto's injuries were consistent with a person attempting to break their fall or tension being placed on the arm, causing it to break.

Deputy Ramon Chavez authored a Supplemental Report **[Exhibit D]** regarding relieving Deputy Chapman and his partner Allison Melendez #[redacted] at San Gabriel Medical Center.

IAB Sergeant Smeltzer attempted to contact the informant, [redacted] who telephoned **[Exhibit I]** Temple Station requesting deputies to respond to Redding Avenue regarding a disturbance call to determine if the informant witnessed Suspect Soto's arrest.

Ms. [redacted] did not return voice messages left on her voice mail. During a canvas for potential witnesses, [redacted] ocated at [redacted] said [redacted] resided at [redacted] Witnesses [redacted] and [redacted] resided at [redacted] and did not know [redacted]